

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION

REVIEW PETITION NO.1 OF 2004
IN
FIRST APPEAL NO.90 OF 2004

Mrs. Korobi Dhruba Saikia)..PETITIONER

Versus

Dr.Dhruba Jyoti Saikia)..RESPONDENT

Mr. A.V. Anturkar, for the Petitioner
Mrs. Seema Sarnaik, for the Respondent

CORAM: F.I. REBELLO & ANOOP V. MOHTA JJ.
DATE : 1st December, 2004

P.C.:

. This is a Review Petition filed against the order dated 10th August, 2004. It is true that in the said order notice was directed to be issued on admission. It was further noted that Appeal will be limited to the point whether the Appellant is entitled to maintenance. Notice was made returnable on 24th August, 2004. At the hearing of the Review Petition on behalf of the Appellant learned Counsel contends that this Court ought not to have dismissed the Appeal in part as the order of 10th August, 2004 is being construed as an order of dismissal. He places reliance on the judgment of the Apex Court in **Ranji Bhagala v. Krishnarao Karirao Bagra & Anr., (1982) 1 SCC 433.**

2. The dismissal of Appeal on a point would require the decision on merits. In the instant case no such order was passed though notice was issued for admission of the Appeal and the Civil Application and further it was noted that the

Appeal will be limited to the point whether the Appellant is entitled to maintenance. That order was issued on the basis that the bench taking up the matter would dispose of the Appeal itself. However, due to change of assignment the Appeal could not be disposed of.

3. Considering that there is no order dismissing the appeal on any point and as the Appeal itself was not admitted the question of reviewing the order would not arise. For the aforesaid reason the Review Petition is not maintainable. Hence Review Petition rejected.

(F.I.REBELLO, J.)

(ANOOP V. MOHTA, J.)